IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

OP.No. 35791 of 2002(J)

PETITIONER:

V.S.MARY, KOLENCHERRY HOUSE,
MATHILAKOM P.O., KODUNGALORE.

BY ADV. SRI.R.KRISHNAN NAIR

RESPONDENTS:

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1. THE STATE BANK OF INDIA,
(REP.BY ITS MANAGER), C & I DIVISION, FORT COCHIN,
COCHIN-2.

2. RECOVERY OFFICER, DEBTS RECOVERY
TRIBUNAL, K.S.H.B.BUILDING, PANAMPILLY NAGAR,
COCHIN-682 036.

3. JOY THOMAS, PROPRIETOR, JAY KAY AGENCIES
THOPPUMPADY, COCHIN-3.

BY ADV. SRI.S.PRASANTH, ADDL.CGSC
SRI.GEORGE THOMAS(MEVADA), SC, SBI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P No. 35791 of 2002 APPENDIX

PETITIONER'S EXHIBITS

Ext.P1: A true copy of the demand notice dated 9-7-2002

Ext.P2: A true copy of the representation dated 1-11-2002

RESPONDENT'S EXHIBITS

Ext.R1(a) ; True copy of the order passed by the Hon'ble Debts Recovery Tribunal in OA 1573/1998 dated 25th February 2000

//True copy//

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PIUS.C.KURIAKOSE. J.

O.P No.35791 of 2002

Dated this the 4th day of June 2007

JUDGMENT

This Original Petition has been posted as defective since notice is yet to be served on the 3rd respondent who along with the petitioner was one of the respondents before the Debt Recovery Tribunal. The case of the petitioner that she is only a surety to the 3rd respondent and that the property belonging to her should not be sold for recovering the debt in question. But obviously Ext.P1 notice of demand issued by the Recovery officer to the petitioner and also to the 3rd respondent. The petitioner's prayer that she being a surety should be spared, cannot be granted in view of the legal position that surety is co-extensively liable with the principal debtor

This court while admitting this writ petition and was, not inclined to grant stay of execution proceedings. In all probability the recovery proceedings are over by now. In any event I do not find any reason in granting relief to the petitioner except to direct the Recovery Officer that the petitioner who is an old lady, shall not be arrested and detained in civil prison in pursuance to Ext.P1.

PIUS.C.KURIAKOSE, JUDGE

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